

PLANNING COMMISSION REPORT



MEETING DATE: August 23, 2006

ITEM No. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Blue Agave/Jackrabbit Supper Club – 2-UP-2006 & 3-UP-2006

REQUEST

Request to approve conditional use permits for a bar and live entertainment in an existing building on a 15,350 +/- square foot parcel located at 4280 N. Drinkwater Blvd. with Downtown/Office Residential Type 2, Planned Block Development, Downtown Overlay.

Key items for Consideration:

- The applicant is proposing to maintain the existing state series 12 restaurant license for this use.
- Stipulations are included that prevent any type of “adult entertainment”.

Related Policies, References:

Downtown Plan
Zoning Ordinance

OWNER/APPLICANT CONTACT

Derek Kamarata
GD LLC
480-236-7579

LOCATION

4280 N. Drinkwater Boulevard Suite 100

BACKGROUND

Zoning.

The site is zoned Downtown Office-Residential, Type 2, Planned Block Development / Downtown Overlay (D – OR2/DO). The D – OR2/DO zoning district(s) allow for a range of uses, including (but not limited to) office, commercial, residential, restaurant, retail, & bar and /or live entertainment, subject to a conditional use permit.

Context.

This property is located just north of Third Avenue, west of Drinkwater Boulevard.

Adjacent Uses and Zoning:

- North Commercial retail / restaurant uses in a Downtown Office-Residential, Type 2, Planned Block Development / Downtown Overlay (D – OR2/DO) zone.
- South Commercial retail / restaurant uses in a Downtown Office-Residential, Type 2, Planned Block Development / Downtown Overlay (D – OR2/DO) zone.
- East Hotel & residential uses in a Downtown Office-



- Residential, Type 2, Planned Block Development / Downtown Overlay (D – OR2/DO) zone.
- West Hotel use in a Downtown Office-Residential, Type 2, Planned Block Development / Downtown Overlay (D – OR2/DO) zone.

APPLICANT'S
PROPOSAL

Goal/Purpose of Request.

The applicant is requesting the ability to operate a bar and have live entertainment at the subject location. The live entertainment is proposed to consist of a three or four person live instrumental act, which will be accompanied by a live dancer who would perform on a raised stage adjacent to the dining area and/or bar area. The stage is proposed to be 42 inches tall and 5 feet wide. The application narrative has described the proposed operation as an “upscale supper club.”

The applicant indicates that the live dancer would be performing routines choreographed to the music on the stage area, and would “spotlight the classic jazz and big band songs of the past.” The “shows” are currently proposed to be approximately 10-12 minutes in length, and are proposed to occur every hour.

Development Information.

- Existing Use: Restaurant
- Buildings/Description: Existing retail & restaurant pads
- Parcel Size: 18, 476 Square Feet
- Building Height Allowed: 36 Feet
- Existing Building Height: 18 Feet (No change proposed)
- Floor Area: 3448 Square Feet - Interior (No change Proposed)
696 Square Feet – Outdoor Patio (No change Proposed)

IMPACT ANALYSIS

Traffic.

The Transportation Division has reviewed the application and has indicated that there will not be any noticeable impact in terms of traffic generation at this location as a result of the intensification of use from a restaurant to a bar.

Parking.

96 spaces are required, 100 paces are provided. One of the key tenets of the Downtown Overlay is that when an existing property intensifies land uses, the applicant is required to make up the net difference between the existing demand and the proposed demand. The existing restaurant requires 32 stalls, and the “new” demand (if this application is approved) is 96 stalls. Therefore, the required parking (net difference) is 64 stalls ($96 - 32 = 64$). The applicant has proposed to lease these parking stalls at 6 different locations in relative proximity to the establishment and to utilize valet parking to help facilitate easier parking movement to and from those leased stalls.

Valet Parking

While not a requirement of this application, the applicant is proposing to utilize valet parking for those stalls which are the furthest away from the proposed establishment and leave the stalls closest to the establishment for open public parking. One of the typical concerns regarding leased stalls adjacent to individual businesses is how potential patrons would know that they can use those stalls. The valet agreement, in this case, would utilize those stalls by blocking the area off with cones and attendants to monitor those stalls which the proposed establishment has leased.

Water/Sewer.

The proposed intensification from a restaurant to a bar with live entertainment will not have any effect on water or sewer utilities.

Police.

There were four calls for service at the Blue Agave restaurant between 09/01/05 and 08/07/06. Three of the calls for service were traffic stops in their parking lot. One call for service was a bar check. There were no departmental reports taken and no liquor violations.

Code Enforcement.

The following represent all code enforcement complaints received at Blue Agave between 7/1/05 and present:

- 07/25/05 The business was issued a Notice of Violation for trash and debris in the shared dumpster with E-4, who was also issued a Notice of Violation for the same violation. The case was closed citing compliance
- 02/07/06 The business was again issued a Notice of Violation for trash and debris staged and stored in the shared trash enclosure. This case was also closed citing compliance.
- 02/14/06 There was a case opened looking into the allegation of construction without permits. The case was closed citing "No violation"

Policy Implications.

In 2003, the city began requiring conditional use permits for bars in the City of Scottsdale. The concern stemmed from 1) a desire to have greater control over local land use issues than was possible at that time under State statute with regard to bars; 2) the impact (total number) of bars in the Downtown, and relative proximity of those establishments to each other; and 3) the management of, and negative effects created by, bar establishments.

The City has approved four Conditional Use Permits in the Downtown area since the requirement for a use permit was established in the Zoning Ordinance; at E4 (Goldwater north of 3rd Ave.), Drinx (Wells Fargo and Stetson Avenues), Salty Seniorita (Scottsdale Road, north of Goldwater) and Jamaican Blue (Scottsdale Rd. and 1st). A fourth, NEXT, was denied by the City Council on June 20, 2006, and one other existing restaurant (Loco Patron) has just recently applied for a bar use permit and will be considered at a City Council hearing on August 29, 2006.

The use permit process requires public hearings before both the Planning

Commission and City Council. This public hearing process requires applicants to submit and be stipulated to a Security and Maintenance Plan and appropriate conditions of approval which help protect the public health, safety, and welfare.

Bars in the Downtown

There has been discussion at many public meetings about the proliferation of State Series 6 liquor licenses in the Downtown area. This discussion is germane to the proposed Use Permit being applied for in this application, but must be put into context. State series 6 licenses often, but not always, indicate bar uses. Don and Charlie's and the Pink Pony are establishments possess series 6 licenses but do not meet the city criteria for a "bar". Likewise, Blue Agave is proposing to be a "restaurant" under state law (series 12 license) yet be a bar under city ordinance. In most instances, an establishment with a series 6 license is also a bar under the city's definition. The following are trends in liquor license trends in the Downtown area:

- In the Downtown area, for the period from April 24, 2003, to August 1, 2006, there was a net decrease in State Series 6 licenses from 34 total to 29 (net decrease = 5). At the time of this report, Salty Seniorita is still in the process of receiving their series 6 liquor license, and is expected to receive it.
- In the area bounded by Indian School Road, Scottsdale Road, Camelback, and the eastern edge of the Downtown – generally Miller Road (during the same time period), there was a net decrease in State Series 6 licenses from 13 total to 12 (net decrease = 1).

Nature of the proposed establishment

The proposed establishment is requesting fall into the "bar" category for three of the six criteria which define an establishment as a bar. The criteria that define a bar are:

1. Bar service area is in excess of 15% of the Gross Floor Area
2. Kitchen is less than 15% of the Gross Floor Area
3. Age verification is requested for admittance
4. A cover charge is required for admittance
5. Less than 40% of gross revenues are derived from the sale of prepared food
6. The business remains open and liquor sales continue but the full kitchen closes before 9 PM.

Recently, the city has stipulated new bars to be as "restaurant-like" as possible. Salty Seniorita was stipulated so that only one of the above criteria defining bars (generate less than 40% food sales) could be met.

The applicant is proposing this operation in an establishment that has a kitchen which is approximately 9% of the interior gross floor area (#2), and plan on charging a cover charge and checking age identification at the door (#3 & 4). Additionally, while the applicant is proposing to stop full food service at 11 PM. Since the existing series 12 liquor license on the site is being maintained, this establishment must generate 40% of its revenue from the sale of prepared food. Other establishments in Downtown have not met 40% food sales with

their kitchens open from 11 AM until 1 AM. It will be challenging for this establishment to meet that requirement given the limited hours that the kitchen will be operating. If the establishment fails to meet this requirement, a series 6 license must be obtained from the state in order to remain compliant with state law.

Given the operating characteristics of the proposed establishment, it appears that this can be characterized as a bar that sells some food and not a restaurant that a restaurant that falls short of meeting its food sales requirement.

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and the City Council has found as follows (Ordinance provisions listed with staff analysis in **bold** font following):

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 - 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.

Staff Analysis:

The establishment has been in operation (as a restaurant) for over a year. Additionally, the applicant will be stipulated to the Draft Security and Maintenance Plan (provided as Attachment #6 to this report).

- 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.

Staff Analysis:

The Transportation Division has reviewed the application and there will not be any unusual traffic volume created as a result of the intensification from a restaurant to a bar at this location.

- 3. There are no other factors associated with this project that will be materially detrimental to the public.

Staff Analysis:

This use is contemplated in the zoning district, subject to a conditional use permit. This process was instituted so that the appropriate City Commission (s) and City Council could review the discretionary application and look at the proposed floor plan.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

Staff Analysis:

The proposed establishment appears to be substantially similar to other bar/restaurant operations in the Downtown area, with the addition of live entertainment.

- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied.

[C.1] *Bars, cocktail lounges, and/or after hours establishments.*

- 1. The use shall not disrupt existing balance of daytime and nighttime uses.

Staff Analysis:

The applicant is proposing to operate only during the nighttime hours, opening at 6 PM and closing at 2 AM, with the kitchen closing at 11 PM for full service. This area is not characterized as a specialty retail area where the dominance of daytime uses have been threatened by a perceived accumulation of nighttime activities. While this use does not benefit the daytime uses in the area, it would also not disrupt the balance of those uses.

- 2. The use shall not disrupt pedestrian-oriented daytime activities.

Staff Analysis:

The existing structure will remain in place. No changes will be made. Patrons of the other businesses in the area would still be able to make pedestrian connections to the other businesses in the area.

- 3. If the site is located within the downtown overlay district then:
 - a. The use shall not encourage displacement of daytime retail uses unless it can be demonstrated that the proposed use shall promote diversity of first floor uses along the street.
 - b. The required parking for the use shall be within six hundred (600) feet of the property and shall not be separated from the property by a major or minor arterial street.

Staff Analysis:

The proposed business will not open until 6 PM nightly. There is a range of daytime retail/restaurant uses in the shopping center which are open during the daytime.

All required parking (that which is required as a result of the intensification from restaurant to bar) would be provided through the off site lease agreements under the provisions of the zoning ordinance.

- 4. If the use is located within five hundred (500) feet of a residential use or district then:
 - a. The use shall not adversely impact residential uses.
 - b. The use shall provide methods of buffering residential uses.

Staff Analysis:

The use is within 500 feet of the 3rd Avenue Lofts building, which is

located approximately 380 feet away, across 3rd Avenue to the south. The proposed use will not adversely affect the residential housing by virtue of the use locating in an existing structure, and with a relatively small patio space. The applicant will be stipulated (if this permit is approved) to a security and maintenance plan which will (if approved) provide the necessary means to buffer residential uses from the proposed bar use.

5. An active management and security plan shall be created, approved, implemented, maintained, and enforced for the business.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. It is attached as Attachment #6. This plan will be implemented and enforced by the City's Code Enforcement Division.

6. The applicant shall provide, with the application for a conditional use permit, a written exterior refuse control plan which must be approved by the planning and development department staff as complying with the written guidelines of the department.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and is proposed as a stipulation of the case. This plan includes the proposed handling of refuse. The refuse plan will be implemented and enforced by the City's Code Enforcement Division.

7. The applicant shall demonstrate how noise and light generated by the use shall be mitigated.

Staff Analysis:

The application is for a change of use in a pre-existing structure. The issue of noise is addressed in the applicant's Security and Maintenance Plan, which has been approved by the City's Police Department. There is no proposed change to the exterior lighting of the structure.

8. The applicant shall demonstrate that the use shall meet required parking and shall not exceed capacity for traffic in the area.

Staff Analysis:

The applicant proposes to meet the "bar & live entertainment use" parking requirement by leasing 68 parking stalls in off site locations. These lease agreements would allow patrons to the proposed establishment to park in those locations. The applicant has also proposed parking services be provided by a valet company, leaving the closest parking spots open and available for the general public.

9. After hours establishments must maintain a valid after hours establishment license.

Staff Analysis:

The applicant is requesting an after hours approval as a portion of this request, as they are requesting to be open until 2 AM. Under the City's zoning ordinance, any operation open past 1 AM must request an after hours permit. The applicant will be required to maintain the necessary after hours permit (s).

In addition to the additional conditions for a "bar" use, the proposed live entertainment must meet the following additional conditions:

J. Live Entertainment.

1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and it's required parking area to residential districts.
 - b. All patron entrances will be well lit and clearly visible to patrons from the parking lot or a public street.

Staff Analysis:

The site is buffered by another building to the south, and parking lots to the southwest. The closest residential housing is approximately 380 feet away from the proposed establishment. All patron entrances are well lit and clearly visible to patrons from the parking lot.

2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.

Staff Analysis:

The floor plan indicates that all business activities resulting from the live entertainment being requested will be fully enclosed within the structure. External speakers are proposed for the patio, and staff has proposed a draft stipulation to require the applicant to maintain the character of the area.

3. The applicant has provided a written public safety plan which the city police and fire departments have approved as complying with the written guidelines of the Planning and Development Department.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. It is included as Attachment #6.

4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with section 7.600 of the zoning ordinance and with the public safety plan guidelines.

Staff Analysis:

The existing lighting plan for the shopping center meets the provisions of this ordinance. Any subsequent changes to this plan would be required to meet the provisions of this ordinance.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

Staff Analysis:

A draft Security and Maintenance Plan has been submitted and approved by the Police Department and is proposed as a stipulation of the case. This includes a refuse plan. It is included as Attachment #6.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include but are not limited to patron dancing areas and/or stages for performances.

Staff Analysis:

The draft floor plan has been provided for review as Attachment #11.

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with transportation planning department written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standard set by the city.

Staff Analysis:

This criteria is not applicable to this application. The entrance to the subject establishment is from the interior of the shopping center.

8. If the Zoning Administrator determines that a study is necessary the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

Staff Analysis:

The Zoning Administrator has determined that the project meets the provisions of the zoning ordinance, by virtue of maintaining valid off site lease agreements for the additional parking demanded as a result of the intensification proposed with this application.

9. The applicant has provided any additional information required by city staff in order to evaluate the impacts of the proposed use upon the area.

Staff Analysis:

Staff required additional information regarding the “nature” of the dance which would be provided for customers on the proposed 5 foot wide, 42” inch tall stage area. The applicant provided video of the

proposed dance, and a narrative description comparing the proposed dance to something one might see at Gammage Auditorium. The submitted video will be available at the public meeting if the Commission would like to see it.

10. The following operational standards must be met by the use throughout its operation:
- All external doors shall be closed but not locked during business hours.
 - No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.
 - The applicant/operator shall comply with all plans approved as provided herein.

Staff Analysis:

All of these issues have been stipulated to, and the closest residential use is 380 feet away.

Liquor License Review.

The applicant already owns a series 12 liquor license for the previous restaurant. The proprietors had applied for series 6 liquor license at the subject location, and the request was denied by the state after the applicants failed to provide the necessary background information. Prior to this denial, the applicant sent an email to the State requesting that their application be withdrawn for "financial reasons." The applicants have indicated that they intend to continue to utilize their series 12 liquor license while operating the bar (if the Conditional Use Permit is approved).

Community Involvement.

The applicant conducted an open house on Wednesday November 23, 2005, at 2 PM in the afternoon, to discuss their proposed operation. No one attended the event. The applicant has subsequently made contact with several of the neighbors and has received several letters in support of their application, all of which are attached to this report as Attachment #7 to this report. Staff has not received any comments, either in writing or by phone, regarding this application.

STAFF
RECOMMENDATION

Recommended Approach:

Staff recommends approval subject to the attached stipulations.


RESPONSIBLE
DEPT(S)

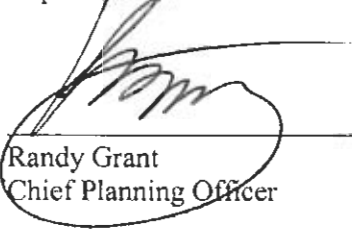
Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

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APPROVED BY



Mac Cummins, AICP
Report Author

Randy Grant
Chief Planning Officer

ATTACHMENTS

1. Stipulations for 2-UP-2006
- 1A. Stipulations for 3-UP-2006
2. Project Narrative
3. Context Aerial
- 3A. Aerial Close-Up
4. Land Use Map
5. Zoning Map
6. Security and Maintenance Plan
7. Citizen Involvement
8. City Notification Map
9. Site Plan
10. Floor Plan
11. Context Photos

STIPULATIONS FOR CASE 2-UP-2006

PLANNING/ DEVELOPMENT

1. OPERATIONS: All operations on site shall comply with the following:
 - a. The Use Permit is restricted to the floor plan prepared by Doerr Design Associates and dated 5/12/06. Any changes to this floor plan shall require an amendment to the Use Permit, or an entirely new Use Permit. During all valid hours of operation, the business operation shall not remove any tables or chairs, and shall keep substantially similar seating areas to those depicted on the site plan prepared by Doerr Design Associates and dated 5/12/06.
 - b. Noise generated from this use, including the outdoor patio and any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area during hours of operation, as determined by the General Manager of the Department of Development Services or designee. Amplified music shall be limited to the times that State law allows liquor sales at this bar.
 - c. There shall be no amplified music during times that State law prohibits the sale of liquor at this bar.
 - d. The bar operator(s) / merchant(s) shall maintain and conform to a Public Security and Maintenance Plan approved by the Scottsdale Police Department, on record with the City of Scottsdale, and shall keep a copy on site. Each year, prior to the anniversary of this use permit approval, the bar operator(s) / merchant(s) shall provide an update to the Public Security & Maintenance Plan to the Police Department and the Planning and Development Services Department. Such update shall state that the plan continues in effect as originally approved, or the update shall conform to the following: If there are any changes that modify the requirements or contents of the Public Security and Maintenance Plan, those changes shall be documented in a revised Public Security and Maintenance Plan, which shall be subject to approval by the Police Department and the Planning and Development Services Department.
 - e. The bar operator(s) / merchant(s) shall maintain and conform to a refuse and litter control plan approved by the Scottsdale Planning and Development Services Department, and any other applicable departments, and keep a copy on site. The bar operator(s) / merchant(s) shall remove and dispose of litter and debris daily, to the satisfaction of General Manager of the Department of Development Services or designee.
 - f. No cover charge shall be required for admission to the bar prior to 9:00 PM.
 - g. The full kitchen shall remain open until 11:00 PM and a limited food service shall be provided until one hour prior to closing.
2. PARKING:
 - h. The bar operator(s) / merchant(s) shall maintain valid lease agreements, at the locations specified in the narrative, for Remote Parking, in accordance with the provisions of Article IX of the Zoning Ordinance. In addition, the bar operator(s) / merchant(s) shall receive approval from the Scottsdale Planning and Development Services Department for a Valet Parking Program to effectively utilize these parking spaces, to the satisfaction of the General Manager of the Department of Development Services or designee.
3. ADMINISTRATIVE / PROCESS: The bar operator(s) / merchant(s) shall comply with the

following:

- i. This Conditional Use Permit shall not become valid until such time as the applicant has demonstrated compliance with Condition (h) and obtained approval for a Valet Parking Program.
- j. This Conditional Use Permit shall become null and void if the "bar" use is abandoned for more than one (1) calendar year after beginning operation. If the bar use is determined to be abandoned, a new Conditional Use Permit shall be required to operate a "bar" use at the subject property.
- k. This Conditional Use Permit shall be reviewed at the end of two (2) calendar years by the Zoning Administrator for compliance with these stipulations.
- l. Any change in operator/business owner at the subject location shall require an administrative review by the Zoning Administrator for compliance to these stipulations and the approved Security and Maintenance Plan. Any deviation from any conditions of approval or change in floor plan may be grounds for revocation of the Conditional Use Permit.

STIPULATIONS FOR CASE 3-UP-2006

PLANNING/ DEVELOPMENT

1. OPERATIONS:

- a. Stage dancing shall not incorporate any routines or performances that would constitute an "adult use", as defined in Article III of the Zoning Ordinance.
- b. Dancers shall not perform in a manner that depicts, or represents sexual activity, including simulating:
 - (1). Sexual intercourse,
 - (2). Fellatio,
 - (3). Sadoomasochistic abuse,
 - (4). Masturbation, or
 - (5). The direct or indirect fondling of the genitals, anus or female breast.
- c. There shall be no more than one (1) dancer on stage at any time during performances.
- d. The dancer shall remain on the designated stage area at all times the performance is occurring.
- e. Dancers shall only perform while wearing clothing that conceals the genitals, pubic area, buttocks, and female nipple.
- f. While performing dancers shall not use or incorporate into their routine any prop, object, novelty device, photograph, or video which depicts, simulates, or describes sexual activity, human genitalia or the nipple of the female breast.
- g. Stage locations shall be consistent with the floor plan provided by Doerr Design Associates and dated 5/12/06.
- h. Noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area during hours of operation, as determined by the General Manager of the Department of Development Services or designee. Amplified music shall be limited to the times that State law allows liquor sales at this bar.
- i. The operator(s) / merchant(s) of the live entertainment shall maintain and conform to a Public Security and Maintenance Plan approved by the Scottsdale Police Department, on record with the City of Scottsdale, and shall keep a copy on site. Each year, prior to the anniversary of this use permit approval, the bar operator(s) / merchant(s) shall provide an update to the Public Security & Maintenance Plan to the Police Department and the Planning and Development Services Department. Such update shall state that the plan continues in effect as originally approved, or the update shall conform to the following: If there are any changes that modify the requirements or contents of the Public Security and Maintenance Plan, those changes shall be documented in a revised Public Security and Maintenance Plan, which shall be subject to approval by the Police Department and the Planning and Development Services Department.
- j. The applicant remains bound by all conditions of approval of 2-UP-2006. Any change in the conditions of approval or status of this use permit shall require an administrative review by the Zoning Administrator. Failure to have a valid use permit for the bar operation may be grounds for the Zoning Administrator to schedule a revocation hearing for the live

entertainment and a review of the conditions of approval of this use permit (3-UP-2006).

- k. All external doors shall be closed but not locked during business hours.
 - l. No external speakers, which play the live music, will be permitted on the premises.
2. ADMINISTRATIVE / PROCESS: The bar operator(s) / merchant(s) shall comply with the following:
- j. This Conditional Use Permit shall become null and void if the "live entertainment" use is abandoned for more than one (1) calendar year after beginning operation. If the live entertainment use is determined to be abandoned, a new Conditional Use Permit shall be required to operate a "live entertainment" use at the subject property.
 - k. This Conditional Use Permit shall be reviewed at the end of two (2) calendar years by the Zoning Administrator for compliance with these conditions.
 - l. Any change in operator/business owner at the subject location shall require an administrative review by the Zoning Administrator for compliance to these stipulations and the approved Security and Maintenance Plan. Any deviation from any conditions of approval or change in floor plan may be grounds for revocation of the Conditional Use Permit.



Project Narrative

This document will be uploaded to a Case Fact Sheet on the City's web site.

Date: 11/5/05

Project No.: 713 - PA - 2005

Coordinator: MAC CUMMINS

Case No.: _____ - _____ - _____

Project Name: GDUC BLUE AGAVE

Project Location: 4280 N. ORCHARD AVE

Property Details:

☐ Single-Family Residential ☐ Multi-Family Residential ☒ Commercial ☐ Industrial

Current Zoning: D/02-2PBD DO

Proposed Zoning: D/02-2PBD DO

Number of Buildings: 1

Parcel Size: 15476.26

Gross Floor Area/Total Units: 3819

Floor Area Ratio/Density: _____

Parking Required: 51

Parking Provided: 36 + 15 = 51

Setbacks: N - _____ S - _____ E - _____ W - _____

Description of Request: * CONTACTED JOHN CHASE : 1 SET 5' FOR SETBACKS
NO INFORMATION AVAILABLE *

DESCRIPTION ATTACHED

ATTACHMENT #2

Planning and Development Services Department

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-70

2-UP-2006

1-24-06

PROJECT NARRATIVE
GD, LLC DBA Blue Agave

Dear Mr. Cummins,

Thank you for taking time to meet with me on October 31st. The objective of this application is to obtain a bar use permit in order to have the ability to request identification at the front door of the restaurant after 10:00 PM and to obtain a live music permit to capitalize on the increased nightly business traffic in Downtown Scottsdale. After six years of owning and operating in Downtown Scottsdale, I firmly believe these permits will increase business, compliment art and cultural events, and decrease liabilities of the restaurant.

First, the bar use permit would greatly limit my liability for underage and intoxicated persons entering the restaurant. On numerous occasions, individuals have entered the restaurant and ordered alcohol without legal identification. Since our policy is to not serve any person less than 35 years of age without identification, we refuse service. Most of the time these individuals have already been drinking prior to entering the restaurant and are very close to the legal drinking age. If a member of the liquor board would enter after the individuals and ask for identification, we could be cited for serving an underage person, allowing an underage person in the restaurant after 10:00 PM, or numerous other liquor violations, even if they were never served. Also, if a patron has already been drinking alcohol in the previous example, a police officer or a member of the liquor board might conclude that the individuals had been drinking while at the restaurant and we served them without identification. Liquor violation fines are often quite substantial to the operators.

We have noticed that underage customers often attempt to buy alcohol when there is no person at the door checking for identification. Once inside the restaurant, it is easier to distract a bartender, server, or manager and pass alcohol to a person that is underage. Also, quite often a large volume of people will enter the restaurant simultaneously. Therefore, it will be more efficient and proactive to verify age at the door. For example, when there are 50 people in the bar area, it becomes difficult to remember if a person has shown identification or not, especially if a friend has passed a drink to them and they are holding it. A manager, server, or fellow bartender might think a different employee has already checked for identification.

Once an intoxicated person enters the restaurant, that person becomes a serious liability to the restaurant. Although we have a strict company policy of refusing service to any patron who appears to be intoxicated, that person is now our responsibility and a major liability. Without a person at the door, it is nearly impossible to stop them from entering. Therefore, a person at the front door would greatly reduce all liability for the restaurant.

Second, I would like to obtain a permit to have live music performed at the restaurant. Examples are having a three-piece jazz band, a mariachi band, or a blues band on certain nights of the week to coincide with the downtown cultural events and night time business. For example, we have been a sponsor of the Thursday Night Art walks since 2000 and would like to capitalize on those events with a Thursday night jazz band. With the recent addition of Theater 4301, we would like to do a blues band Friday nights and a Mariachi band Saturday nights. I truly believe a live music permit will help advance culture and the arts in the downtown Scottsdale area.

The restaurant has many requests for live music for private parties, Christmas parties, anniversaries, birthdays, and other special occasions. Often these parties are planned less than 45 days prior to the event, making a special event permit difficult to obtain. However, we have continued to host many private events, as well as this year, and without fail the event coordinators will request live music two weeks prior to the date of the event. Entertainment is a key component to hosting private events, especially charitable events, as people believe they are getting entertained for their donation.

To conclude, we are requesting these permits in order to reduce our liability and to increase business. Both permits will not disrupt any other business in the area either during the daytime or evening. A bar use permit will greatly reduce the potential for fines, citations, and liquor-related lawsuits. A live music permit will enhance our potential to attract business and capitalize on the cultural events and consumer base of the downtown area.

Project Narrative

Sec. 1.403,D

1. The use will not disrupt any balance of daytime and nighttime uses. The establishment is currently open from 11 am to 2am Monday through Saturday.
2. The use will not disrupt any pedestrian-oriented daytime activities. The building was built in 2000 and has great sidewalk access.
3. As previously stated, the establishment has been operating as a restaurant and bar since 2000. This permit will not discourage any daytime retail uses.
All parking required will be within 600 feet of the property.
4. All music and noises will be kept within the walls of the building and will not disturb any residential uses.
5. An active management and security plan has been created, approved and implemented by Scottsdale Police Department and Blue Agave.
6. Refuse plan attached.
7. Lighting on the building will not change from the approval from the City of Scottsdale in 2000. All noise will be kept within the building as it has for the last 6 years. Blue Agave takes great pride in the neighborhood and cooperating with all uses and establishments.
8. Please see parking study.
9. Not an after hours establishment.

REVISED PROJECT NARRATIVE
BLUE AGAVE / JACKRABBIT SUPPER CLUB
2-UP-2006

This is a request for a bar use permit in order to have the ability to request identification at the front door of the restaurant after 10:00 PM and for a live entertainment use permit to offer a jazz ensemble/jazz dancer performance or similar musical ensemble performance hourly in the evening to capitalize on the increased nightly business traffic in Downtown Scottsdale. After six years of owning and operating in Downtown Scottsdale, the owner firmly believes these permits will increase business, complement art and cultural events, and decrease liabilities of the restaurant.

First, the bar use permit would greatly limit liability for underage and intoxicated persons entering the restaurant. On numerous occasions, individuals have entered the restaurant and ordered alcohol without legal identification. Since the restaurant's policy is to not serve any persons less than 35 years of age without identification, service is refused. Most of the time these individuals have already been drinking prior to entering the restaurant and are very close to the legal drinking age. If a member of the liquor board would enter after the individuals and ask for identification, the restaurant could be cited for serving an underage person, allowing an underage person in the restaurant after 10:00 PM, or numerous other liquor violations, even if they were never served. Also, if a patron has already been drinking alcohol in the previous example, a police officer or a member of the liquor board might conclude that the individuals had been drinking while at the restaurant and were served without identification. Liquor violation fines are often quite substantial to the operators.

Underage customers often attempt to buy alcohol when there is no person at the door checking for identification. Once inside the restaurant, it is easier to distract a bartender, server, or manager and pass alcohol to a person that is underage. Also, quite often a large volume of people will enter the restaurant simultaneously. Therefore, it will be more efficient and proactive to verify age at the door. For example, when there are 50 people in the bar area, it becomes difficult to remember if a person has shown identification or not, especially if a friend has passed a drink to them and they are holding it. A manager, server, or fellow bartender might think a different employee has already checked for identification.

Once an intoxicated person enters the restaurant, that person becomes a serious liability to the restaurant. Although there is a strict company policy of refusing service to any patron who appears to be intoxicated, that person is now the restaurant's responsibility and a restaurant's major liability. Without a person at the door, it is nearly impossible to stop them from entering. Therefore, a person at the front door would greatly reduce all liability for the restaurant.

Secondly, a use permit is being requested to have live music performed at the restaurant. Examples are having a three-piece jazz band, a mariachi band, or a blues band on certain nights of the week to coincide with the downtown cultural events and night time business. For example, the restaurant has been a sponsor of the Thursday Night Art walks since 2000 and would like to capitalize on those events with a Thursday night jazz band. With the recent addition of Theater 4301, it would be the intent to occasionally do a blues band Friday nights and a Mariachi band Saturday nights. The live entertainment permit will enhance the culture and the arts experience in the downtown Scottsdale area.

The restaurant has many requests for live music for private parties, Christmas parties, anniversaries, birthdays, and other special occasions. Often these parties are planned less than 45 days prior to the event, making a special event permit difficult to obtain. However, many private events continue to be scheduled, as well as this year, and without fail the event coordinators will request live music two weeks prior to the date of the event. Entertainment is a key component to hosting private events, especially charitable events, as people believe they are getting entertained for their donation.

The following provides a detailed description of the operation of the proposed Jackrabbit Supper Club and the personnel involved.

HISTORY

The Blue Agave restaurant was built and opened by its current owner, Derek Kamarata in 2000, in a commercial development on the east side of Drinkwater Boulevard, just north of Indian School Road and one-half mile south of the Scottsdale Galleria. The Blue Agave Restaurant was the first business opened in that development. Derek, a Saguaro High School and Arizona State University graduate, has been a resident of South Scottsdale for over 20 years. He managed the P.F. Chang's Restaurant in the Scottsdale Fashion Square Mall for seven years before opening his own restaurant.

Since its opening in 2000, the Blue Agave Restaurant has had zero (0) liquor violations. During that time, the business has been active in many local community events, ranging from participating in functions with gallery owners to working with various charitable organizations. Over 25 local business owners in the Downtown area have written letters of support for the proposed renovation changes and for the restaurant's permit applications.

Over the past few years, the business has struggled due to the changing environment in the downtown Scottsdale area and the changing clientele demographics. With its lunchtime business fading and the large number of people coming to Old Town later at night for its high-end dining and entertainment alternatives, it was clear to Derek that in order for the business to survive, an investment would have to be made to renovate and update the concept the business to keep up with the changing business environment.

Partnership

During the past winter, Derek raised investment capital for the renovation of the business. Along with the additional capital, Derek brought in three partners to help redesign and operate the business. The new partners are Jonathan Valz, Annie Itsell and John Dolan. This new group developed a business plan and strategy to renovate the restaurant and update its concept in order to compete in the new downtown environment. The new business plan calls for an investment of over \$900,000 into the business.

Jonathan Valz earned an MBA in business management from Arizona State University and has over 10 years of management experience while working for two Fortune 500 companies, Morgan Stanley and Charles Schwab & Co. He has also worked as a project manager for the development of two businesses located in the downtown Scottsdale area. Jonathan has been a resident of Scottsdale for the past eight years and currently owns a home in North Scottsdale.

Born and raised in Fountain Hills, Annie Itsell began studying ballet intensively at the age of 10. Through her years of training she studied at Ballet Arizona, The Academy of Las Vegas Nevada Dance Theater and The Colorado Ballet, and the Royal Academy of Dancing in London. A graduate of Arizona State University's business school, Annie has five years experience working in the food and beverage industry with the Gallo Winery, formally trained in wine training from the Gallo Winery and the International Sommelier Guild. She owns a home in South Scottsdale and also continues to teach ballet at Fountain Hills Dance Academy.

John Dolan attended Arizona State University and has over 10 years of management experience in the restaurant and hospitality industry, most notably at P.F. Chang's in Scottsdale. John has also worked as a restaurant consultant for numerous restaurants and bars in the downtown area.

Proposal

The new business plan was designed to take advantage of the growing affluent, upscale clientele in the downtown area. With the various high-end condominium projects being built downtown and the renovation and construction of numerous trendy boutique resorts in the area, the new business focuses on becoming an additional attraction to the dining and entertainment district in Old Town Scottsdale. The venue will target the upscale, urban, 28-45 year old crowd that desires a trendy yet fun dining and lounge experience.

The proposal is to change the concept of the restaurant from a Mexican cantina into an upscale supper club, tentatively named the Jackrabbit Supper Club. The concept of the entertainment portion of the venue is to have a live, 10-minute show with a

professional three-piece jazz band and solo jazz dancer performing a choreographed musical and dance routine. Shows will be performed approximately once per hour throughout the course of the night. The show will be the focal point of the venue, meaning that all activity in the venue will stop to watch the show. Before the show starts, the venue lights will go down and the background music will turn off, and then the stage will light up and the show will begin. To reiterate, the show is not background music but instead the focal point of the venue, hence our concept of entertainment-based dining.

The setting of the venue, as proposed in the building plans submitted, has all of the seating facing the north wall of the establishment where the stage will be. The proposed stage is 5 feet in width and runs the length of the wall. The three-piece jazz band will also be performing on the same stage. The proposed stage is 42" high in order for all patrons throughout the venue to be able to have a clear view of the show. Since the venue will have seating throughout, an elevated stage area is required to ensure clear viewing of the show from any seating area in the venue.

The applicant hereby assures the City in writing that the nature of the show will in no way remotely be considered as any form of adult entertainment as described as "adult live entertainment establishment" per Appendix B, Basic Zoning Ordinance, Article III, Definitions, Section 3.100.General of the Scottsdale Revised Code. In addition, to clarify any further concerns over the nature of the show, a DVD has been provided of the exact show that is proposed to be performed. All shows will be in a similar format, although music and costuming will change periodically. The filmed rehearsal includes the actual performers who will be performing the show.

The business would undergo the following updates and changes to its concept and operation:

- The new name of the venue will be the Jackrabbit Supper Club (logo below). It will offer a trendy, upscale dining experience with live jazz performances during the course of the night.



Q.S.
17-45

G.I.S. ORTHOPHOTO 2003

2-UP-2006

3-UP-2006

Blue Agave/Jackrabbit Supper Club

ATTACHMENT #3



Q.S.
17-45

G.I.S. ORTHOPHOTO 2003



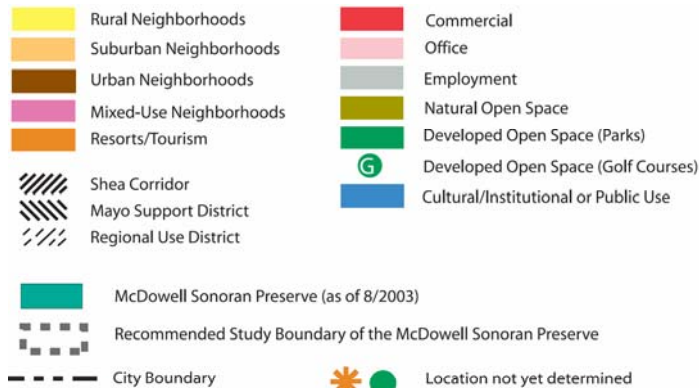
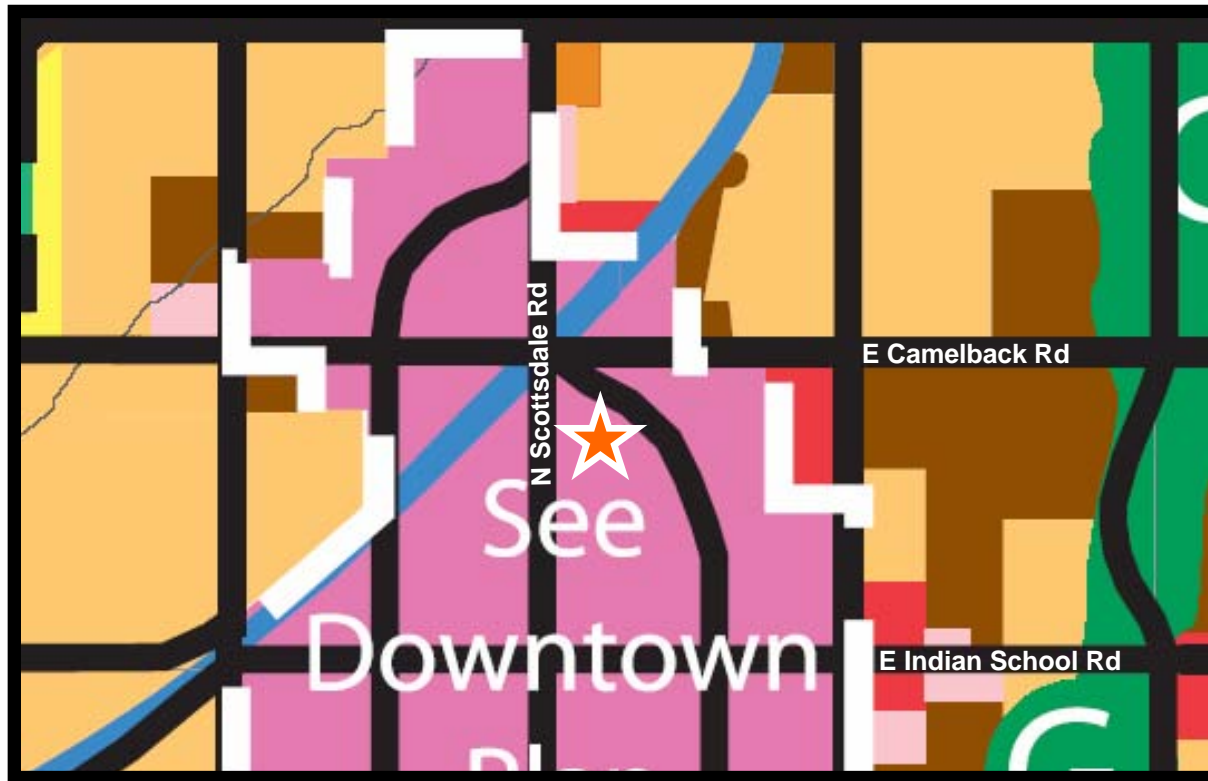
2-UP-2006

3-UP-2006

Blue Agave/Jackrabbit Supper Club

ATTACHMENT #3A

General Plan



2-UP-2006
3-UP-2006

ATTACHMENT #4

Adopted by City Council October 30, 2001
Ratified by Scottsdale voters March 12, 2002
revised to show McDowell Sonoran Preserve as of May 2004
revised to reflect General Plan amendments through June 2004

SECURITY, MAINTENANCE AND OPERATIONS PLAN

For Bars and Live Entertainment Use Permits



Scottsdale Police Department, 3700 North 75th Street, Scottsdale, AZ 85251

480.312.5000

FAX 480.312.2030

Establishment: GO LIC (BLUE AGAVE)
Address: 4280 N. DRINKWATER BLVD. #100
Business Phone: (480) 429-1123
Business FAX: (480) 429-0292
Maximum Occupancy: 218 42 PATIO
Effective Date of the Plan: 1/1/06
Date of Plan Review: _____
Use Permit Issue Date: TO BE DETERMINED
Liquor License Number: 12074491
Contact Person (1): DEREK KAMARATA
Home Phone: (480) 236-7579
Contact Person (2): JOSEPH KIEHLWEISS
Home Phone: (480) 231-2613

FAILED
11/21/05

ATTACHMENT #6

TABLE OF CONTENTS

- I. Purpose of the Plan**
- II. Plan of Operations**
- III. Security & Maintenance Plans**

I. Purpose of the Plan

This plan addresses security measures for an establishment whose use shall require a Security Plan pursuant to Scottsdale Revised Codes.

This Security Plan's purpose is to collect information about operations, management and security of bar uses and to address community concerns regarding:

- 1. Any significant increase in vehicular or pedestrian traffic, including effects on parking, traffic and circulation in the area.
- 2. Adequate control of disruptive behavior both inside and outside the premises.
- 3. Compatibility with surrounding structures and uses.
- 4. Effects of the neighborhood, including deterioration of the neighborhood or the downgrading of property values.

To assist in providing an environment that may enhance safeguarding of property and public welfare, as well as reduce the necessity for calls for service from law enforcement agencies.

II. Plan of Operation: Operations and Hours

1. Permittee: GD LLC, BLUE AGAVE
- Type of Organization: Arizona Corporation Corporation
Sole Proprietorship LLC
Partnership Other
2. Managing Agents Name: DEREK KAMARATHA
 Title: MANAGING MEMBER
 Address: 4280 N. DRINKWATER BLVD. #100
SCOTTSDALE, AZ 85251
 Phone Numbers: (480) 429-1123
(480) 286-7579
 Fax or Other Numbers: (480) 429-0292

3. Business Owner(s) (if different than Managing Agent) Name, Address, Phone:

4. Property Owner or Property Manager (if different from Managing Agent) Name, Address, Phone: MTC PROPERTY MANAGEMENT
960 E. CAMPBELL AVE.
CAMPBELL, CA 95008

5. Hours of Operation:

	Peak/Non-Peak Night	Open to Customers	Liquor Sale Begin	Liquor Sale Ends	Closed to Customers
Monday	LOW PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Tuesday	LOW PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Wednesday	LOW PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Thursday	LOW PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Friday	PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Saturday	PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM
Sunday	LOW PEAK	11AM-2AM	11AM	1:55AM	2AM-11AM

6
7

Promotional Events (Ladies Night, ~~Teen Nights~~, etc.) (attach or describe):

NONE

Program Format/Entertainment/Advertising (attach or describe): (example: We intend to cater to persons 35 to 55 years old, utilize oldies music, and provide sports events/programming.)

1:55AM

- a. Live entertainment and live music shall terminate no later than 12:55 p.m. nor before 8:00 a.m., as approved in the Use Permit.

- b. Music and amplified sound shall terminate at closing and is subject to City noise and other ordinances.

8. Special Events:

- a. Notice must be given by Permittee to City of Scottsdale Planning and Development at the address above at least ~~twenty (20)~~ ^{45 days} days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Scottsdale requires separate licenses for outdoor special events.
- b. Additional security or revisions to this Plan may be required by the Scottsdale Special Events Committee (program formats varying from the regular format described above).
- c. Permittee must be separately licensed to conduct After Hours, Teen Nights, Outdoor Event/Special Events, Special Liquor License Events, Extensions of Premises, and separately approved Security Plans (or amendments to this Plan). See Scottsdale City Code for requirements.

9. Cooperation/Complaints/Concerns:

- a. Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses that may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Employee Name:

Names of Effected Businesses Within 300 (three hundred) feet of Permittee (use a continuation page, if necessary):

- 1) QUIZNOS
- 2) SALON VIRTU
- 3) AMERISUITES HOTEL
- 4) EH NIGHTCLUB
- 5) BRIDES BY DEMETRIOS

- b. Permittee, managing agents, on-duty managers, supervisors and security personnel will cooperate closely with Scottsdale Police, officers, City of Scottsdale Code Enforcement staff and neighbors in addressing and investigating complaints and concerns.

- c. Permittee's managing agent(s) shall meet with Scottsdale Police Department when requested by the Scottsdale Police ~~Bike Unit Sergeant~~ or his representative, or District Commander.
- d. Site/Building Information
 - 1) A diagram of the exterior and interior of the establishment is appended.

III. Security and Maintenance Plan

1. Dress Codes

Security personnel must be readily identifiable to police, patrons, and other (NAME OF BUSINESS) BLUE AGAVE security members. Dress code for Civilian Security Personnel, Manager, and Assistant Manager:

- a. Shirt: Black shirt with word "Security" on back in two-inch white letters centered approximately four-inches below top edge of neck, and (NAME OF BUSINESS) BLUE AGAVE on front in smaller white font.
- b. Jacket: During the cold nights, a black jacket with the word "Security" on back in two-inch white letters centered approximately four-inches below top edge of neck, and (NAME OF BUSINESS) BLUE AGAVE "Security" on front in smaller white font.
- c. Radio: Used as a means of maintaining constant communication inside and outside the building. All management and security employees must carry radios.

2. Security Officer Responsibilities:

Security officer responsibilities must be clearly delineated. There will be a minimum of 2 uniformed (wearing the above-described uniform) security officers working on peak nights whose responsibilities will be as follows:

- a. 1 officer will be responsible for roaming the interior of the business and identifying hazards, problems, and maintaining guest safety. Civilian Security Officers will be responsible for patrolling the full property of the liquor establishment during all hours when patrons are in the establishment, outside the establishment, and in the establishment parking areas. During After Hours, if applicable, the security officer will assist sworn officers in removing all guests in a safe manner, then assisting the uniformed sworn officers (when utilized) in (NAME OF BUSINESS) BLUE AGAVE and nearby areas until 0500 hours or until all guests have left the area.

- b. 1 officers will be responsible for checking identifications at the front door. All identifications must meet the minimum criteria for Arizona Revised Statutes Title 4 to allow access to the interior of the Liquor Establishment, including during the time period of After-Hours, if applicable. Additional duties will be as follows; access control, counting of patrons, prevention of intoxicated persons from entering (NAME OF BUSINESS) BLUE AGAVE. At 0215 hours, these security officers will assist (NAME OF BUSINESS) BLUE AGAVE staff in removing all guests in a safe manner, then assisting the uniformed sworn officers (when applicable) in patrolling the exterior of (NAME OF BUSINESS) BLUE AGAVE and nearby areas until 0200 hours or until all guests have left the area.
- c. 1 officer will be responsible for conducting roaming patrol of the exterior of (NAME OF BUSINESS) BLUE AGAVE. In an effort to prevent criminal behavior and maintain the peace. During After Hours, if applicable, at 0400 hours, this security officer will assist (NAME OF BUSINESS) BLUE AGAVE in removing all guests in a safe manner, then assisting the uniformed sworn officer in patrolling the exterior of (NAME OF BUSINESS) BLUE AGAVE and nearby areas until 0500 hours or until all guests have left the area.
- d. Report all acts of violence to management personnel, complete a written report, log the act of violence, and contact Scottsdale Police Department immediately. Liquor establishment management/ownership remains ultimate responsibility for the recording of the act of violence, logging of the act of violence, and reporting of the act of violence

3. Management Responsibilities

Managers, assistant managers, and person(s)-in-charge responsibilities will be clearly delineated.

- a. There will be a minimum of 2 managers available during peak nights.
- b. There shall be a general manager and one assistant manager on duty all hours while open for business and for thirty minutes after closing.
- c. A manager shall be identified as the "Security Manager" and be responsible for insuring that a safe environment exists, for the supervision of all security personnel and that all security personnel as identified here shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulation issued pursuant thereto.
- d. The senior manager on duty will ensure that all employees, security staff, and off-duty law enforcement officers shall be trained and knowledgeable about the contents of this Plan.
- e. A security manager will be on duty until one hour after closing or the last security officer is off duty, whichever occurs last.

4. Uniformed Sworn Officer Responsibilities:

N/A

Off-duty law enforcement officer responsibilities must be clearly delineated. There will be a minimum of ___ uniformed sworn officers assigned to the following responsibilities.

- a. Maintain radio communication with (NAME OF BUSINESS) _____ security officers, staff and management.
- b. Conduct traffic control as needed.
- c. Assist civilian security officers in removal of disorderly and/or intoxicated guests.
- d. Maintain the peace outside of the liquor establishment until 0200 hours or until all patrons have left the area, whichever occurs last.
- e. From 0100 until 0200 hours, patrol the exterior portions of (NAME OF BUSINESS) _____ to maintain the peace, as well as prevent criminal acts. All acts of violence must be reported to the Department of Liquor Licenses and Control, even when a victim is not available.
- f. If a valet is utilized, maintain the peace in the area of the valet.
- g. Assist Security Officers with maintaining order in the entrance line.
- h. Customers will be discouraged from committing criminal offenses in the area after closing. Enforcement action will be taken as necessary.
- i. Report all acts of violence to management personnel and contact Scottsdale Police Department for assistance as required, above.

5. Guest Parking Plan

In order to reduce criminal activity that negatively affects the nearby businesses, a well-illuminated guest-parking site has been established. Patron parking areas will be well controlled for the safety of patrons, their property, and that of nearby businesses.

- a. (NAME OF BUSINESS) BLUE AGAVE will maintain a minimum of 48 parking spaces.
- b. (NAME OF BUSINESS) BLUE AGAVE may utilize a valet system, but application to the City of Scottsdale will conform to all existing valet rules.
- c. A Parking Study and diagram is appended. The Parking Study and diagram will include a description of the parking area, the specific location, and number of spaces utilized for patrons and employees.
- d. (NAME OF BUSINESS) BLUE AGAVE will insure that parking areas utilized by patrons and employees will be supervised by the Permittee to ensure that the parking areas are not used as a gathering place, for consumption of spirituous liquor, for violations of state or city law, acts of violence, or disorderly conduct. The Permittee will ensure that all patrons have left the parking areas within thirty minutes after the designated closing time.

6. Refuse Plan

Citizen surveys and police calls for service both indicate that businesses in the downtown area have complained about liquor establishments' lack of responsibility in this area.

- a. Refuse containers will be emptied within twenty-four hours of a special event.
- b. (NAME OF BUSINESS) BLUE AGAVE management will be responsible for cleaning and refuse pick-up for any refuse found within three hundred feet of the business, patron parking lot(s), and employee parking lot(s). All bottles, trash, and refuse found on streets, sidewalks, private property, and empty lots within the above-designated areas will be placed in (NAME OF BUSINESS) BLUE AGAVE refuse container.

7. Safety Plan

(NAME OF BUSINESS) BLUE AGAVE has established this safety plan which incorporates and addresses the issue of duration of security officer responsibilities, reporting acts of violence to Department of Liquor License and Controls, assistance in police investigations, incidents of criminal trespass, and disorderly patrons.

- a. Duration of Security Responsibilities; Responsibility for providing security to patrons, employees and the public will extend to the established parking areas as identified in the parking plan from at least one hour before opening to at least one hour after the end of business on Thursday, Friday, or Saturday nights (Sunday mornings) or on any other day when conducting special events.
- b. Reporting Acts of Violence: All acts of violence inside and outside of (NAME OF BUSINESS) BLUE AGAVE including the parking areas designated in the Guest Parking Plan (and valet services parking areas, if utilized) shall be reported to an on duty manager and/or owner immediately. Scottsdale Police Department will be called immediately and an Arizona Department of Liquor Licenses and Control (DLLC) Licensee's Report of Act of Violence form will be completed. This report will be completed and forwarded to the DLLC regardless of the action taken by the police department.
- c. Assistance to Police Investigations; It is mandatory that any employee, including owners, managers, assistant managers, and staff will reasonably cooperate with any police investigation, and the subsequent prosecution regarding arrests made on or relating to the premises resulting from a need to maintain the peace or public order, or resulting from a request by our establishment to investigate any potential criminal act.
- d. Incidents of Criminal Trespass; During investigation and complaints of Criminal Trespass where the establishment is a victim, (NAME OF BUSINESS) BLUE AGAVE manager will act as an arresting citizen if uniformed sworn officers are not available.
- e. Disorderly patrons: Disorderly patrons will be safely escorted from the establishment by security officers and/or uniformed sworn officers.

Disorderly patrons will be turned over to uniformed sworn officers for disposition, when employed.

- f. Persons Under 21 Years of Age; Permittee agrees that a person under twenty-one years of age will not be allowed on the premises where liquor is sold, dispensed or consumed unless:
 - 1) The person is accompanied by a spouse, parent or legal guardian who is at least twenty-one (21) years of age or is an on-duty employee of the Permittee, OR
 - 2) The primary purpose of the premises is serving food; OR
 - 3) The primary purpose of the premises is a patron participatory recreation activity limited to the minor's participation in any of the following sport activities: bowling, golf, football, or basketball.
- g. Management; Permittee agrees to provide the following minimum number of Managers 1, Assistant Managers 1, when the Permittee is open for business. On duty managers are responsible for supervision of all employees, security personnel, off-duty sworn law enforcement officers, agents, and shall identify all employees, personnel, and agents on the premises when requested by City of Scottsdale employees.

8. Special Events

All special events or promotional events (i.e. Ladies Night, Teen Night, etc.) must be identified in writing for the upcoming year within ten days of approval of this permit. A copy of these dates faxed to the Scottsdale Police Bike Unit with a specific list of the dates that special events will be conducted. This notification is not an authorization, but a notice of intent. Permittee understands that the notification of special events related to this permit are necessary for the following reasons:

- a. Preparation: Special and promotional events often tax police resources more than liquor establishments during regular hours. Prior notice will allow police to prepare for the events.
- b. Inspections: Police inspections can be performed of the special events, the establishment, and at any time when there are any occupants of the liquor establishment.
- c. Operation of special events or promotional events on dates not identified by (NAME OF BUSINESS) BUE AGAVE list of dates for the upcoming year will result of immediate closure of the liquor establishment's special event, as well as place (NAME OF BUSINESS) BUE AGAVE in noncompliance.

9. Enforcement of Security Plan by City of Scottsdale

- a. The Permittee agrees that successful execution and enforcement of this Plan are a requirement and condition of Scottsdale's Use Permit. Termination, cancellation or non-approval of the Plan constitutes a breach of any condition requiring the existence of an approved Security Plan.
- b. Violations of this Security Plan will be enforceable by City of Scottsdale Police Officers and/or Code Enforcement employees.
- c. Violation, amendment, revocation, as defined in Scottsdale City Zoning Code Sec. 1.402. Conditional use permits which have been approved by the City Council shall be subject the following procedures and criteria regarding any violation, amendment, or revocation.
 - 1) Violation. The violation of any condition imposed by the conditional use permit shall constitute a violation of this ordinance and shall be subject to the requirements of Section 1.1300.
 - 2) Amendment. Conditional uses shall be developed in conformance to the approved plans as determined by the Zoning Administrator. An amendment to a conditional use permit is required before implementation of any material change in the scope and nature of an approved conditional use, material change in any conditions or stipulations to a conditional use permit or material change in the physical size, placement or structure of property subject to a conditional use permit. The Zoning Administrator shall have the discretion to determine if a proposed change warrants an amendment. An amendment must be approved as provided in Section 1.400 et seq. for the approval of conditional use permits.
- d. Revocation of the Plan. The Zoning Administrator may recommend to the Board of Adjustment and the board may effect revocation of a conditional use permit pursuant to Section 1.807 of the Scottsdale Zoning Code for acts including but not limited to:
 - 1) A violation of the Plan.
 - 2) Violation of the conditions of the Use Permit.
 - 3) Violation of Scottsdale ordinances or law.
 - 4) Repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, or failure to report acts of violence
 - 5) Failure of the Permittee to take reasonable steps to protect the safety of persons entering, leaving or remaining on the premises when the Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or

reasonably should have known of such acts of violence or altercations

- 6) Any enlargement or expansion of the premises, plan of operation or program format without appropriate approval from Scottsdale.
- 7) Misrepresentations or material misstatements of the Permittee, its agents or employees.

e. Dissemination of the Security Plan

1) A copy of this Security Plan must be provided to each security officer and off-duty sworn law enforcement officer employed by the establishment, manager, and assistant manager.

2) A reading log will be maintained, and will be signed by each of the above persons (8.d.1) when they have read and understand this plan. Each security employee must read the plan once per year, or when there are any changes to the plan.

3) A current copy of the plan will be maintained on the premises at all times.

4) A current copy of this plan must be made available upon request of any code enforcement officer or police officer.

5) Failure to conform to this plan will be considered a violation of the plan.

f. Termination of the Plan.

This Plan may terminate on the date that the Permittee's Use Permit terminates, or two (2) years from the Security Plan's effective date, whichever occurs first, unless otherwise provided herein.

g. Meetings.

Management of Permittee shall arrange meetings with a representative of the Scottsdale Police Department regarding incidents of disorderly conduct, safety, identification verification, and general security issues when deemed necessary by the District Commander or his representative.

Enclosures:

1. Names of Effected Businesses
2. Parking Plan - Including Patron and Employee Parking, both on- and off-site.
3. Diagram - Including Exterior and Interior Areas

APPLICANT:



Name: DEREK LAMANNA
Title: MANAGING MEMBER
Address: 4226 N. DRINKWATER BLVD #110
City & State: SCOTTSDALE, AZ
Telephone: (480) 312-7579
Date Signed: 11/15/05

APPROVED:

Scottsdale Police Department
3700 North 75th Street
Scottsdale, AZ 85251
480.312.5000

~~Police Bike Unit FAX 480.312.2030~~

P.D. FAX 312-7701

6. No promotional events planned at this time. Scottsdale Police Department will be notified 45 days in advance of any special promotion.
7. We plan on capitalizing on persons 30 to 55 years of age. The music format will be a three-piece jazz band, an authentic mariachi band, and a blues band. Most of our advertising for these bands will be through the Scottsdale Artwalks and cultural brochures.

Refuse Plan

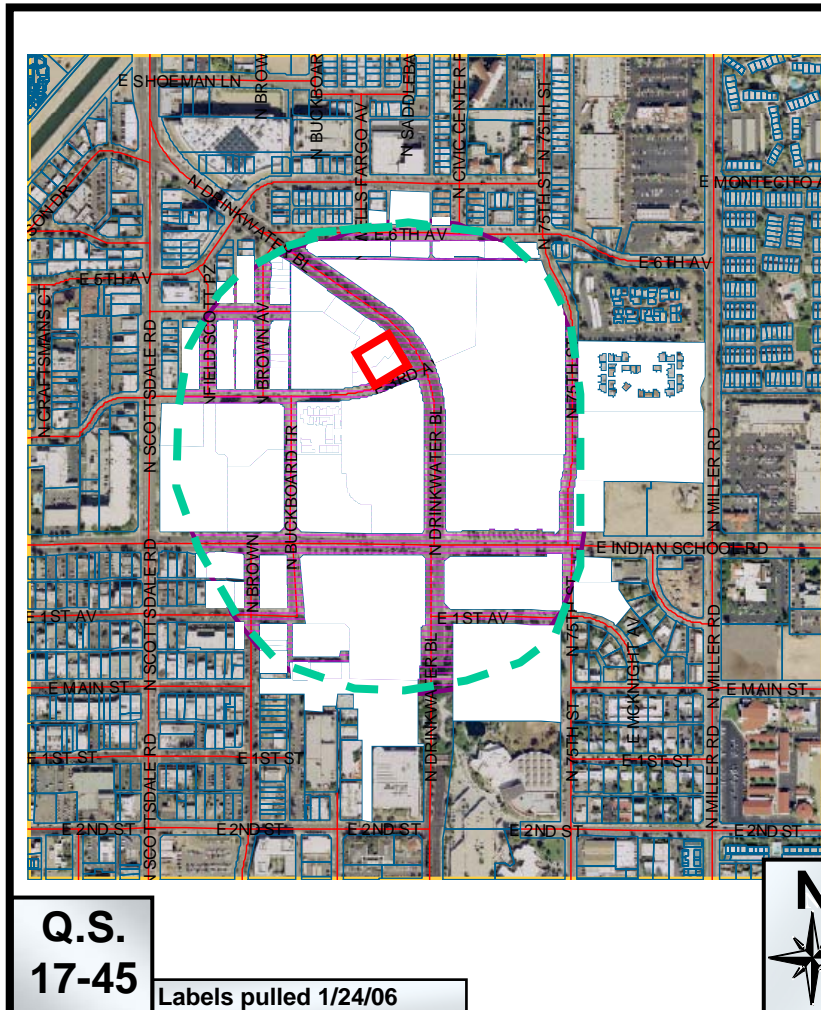
The staff and management of GD, LLC (Blue Agave) will maintain the parking lots and areas within 250 feet of the establishment. These areas have been and will be patrolled at 9AM, 2PM, 6PM, and Midnight to insure maintenance. Cleanliness of the surrounding areas is a benefit to the appearance and impression of the restaurant.

Blue Agave/Jackrabbit Supper Club
2-UP-2006/3-UP-2006

Attachment #7 Citizen Involvement

The above attachment is on file at the City of
Scottsdale Current Planning office,
7447 E Indian School Road, Suite 105.

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 750-feet

Additional Notifications:

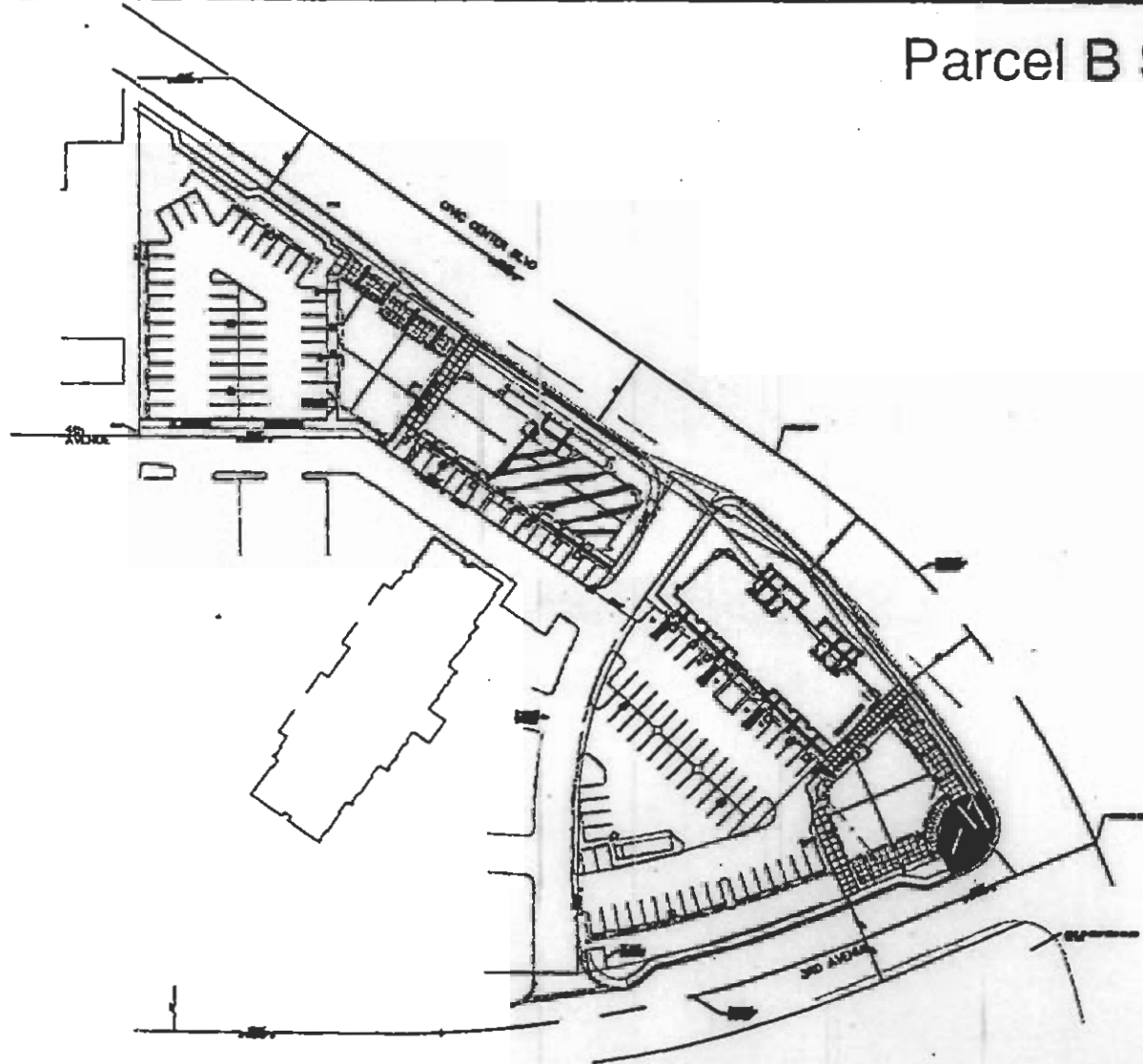
- Interested Parties
- C.O.P.P.
- Scottsdale Coalition

2-UP-2006 & 3-UP-2006

Blue Agave/Jackrabbit Supper Club

ATTACHMENT #8

Parcel B Site Plan



Civic One

Jackrabbit Supper Club (Blue Agave)
4820 North Drinkwater Blvd.
2-UP-2006

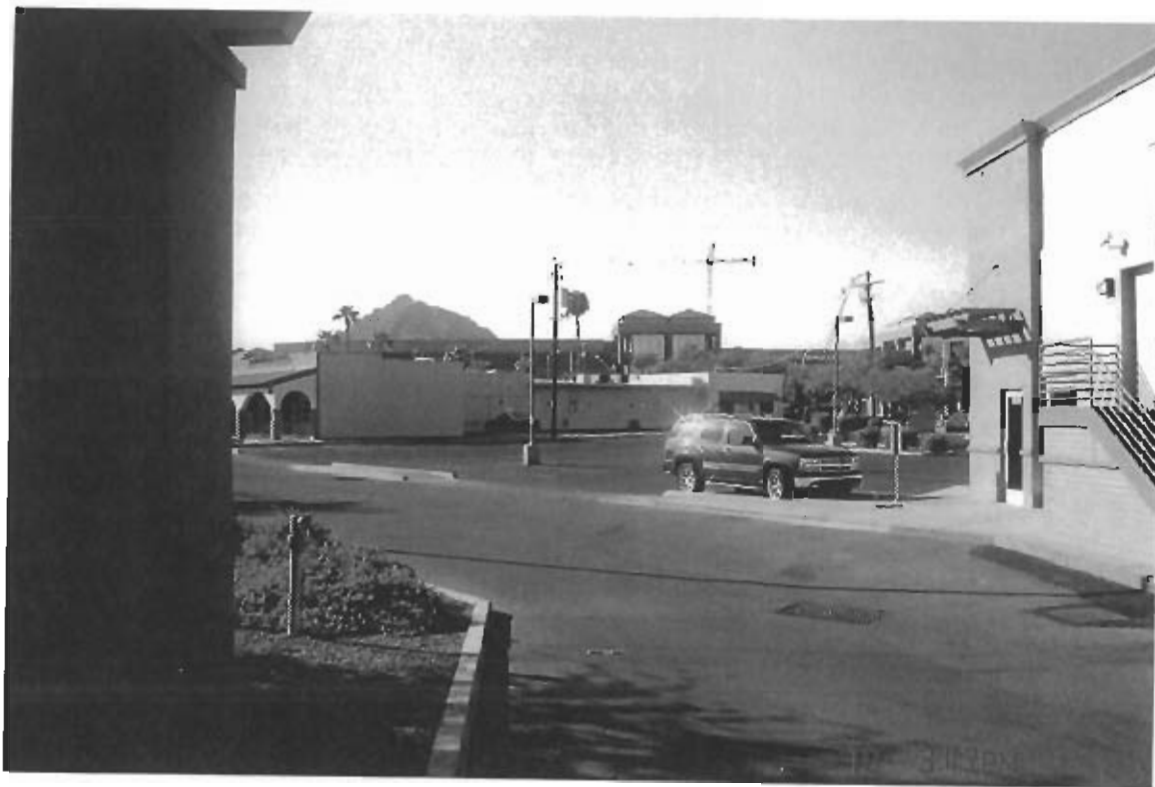
Floor plan calculations of interior space:

Existing Fire Rise Room	47.25 Sq. Ft.
Remodeled Storage (02)	21.75 Sq. Ft.
New Waiting/Reception (01)	232.7 Sq. Ft.
Kitchen/Bath Hall	70.5 Sq. Ft.
Water Heater	7.56 Sq. Ft.
Kitchen (05)	298.4 Sq. Ft.
Existing Storage (06)	27.88 Sq. Ft.
New Dining Platform (08)	148.6 Sq. Ft.
Sound Control (07)	43.8 Sq. Ft.
Dining Area (20)	1,581.8 Sq. Ft.
New Service Area (10)	82.7 Sq. Ft.
Existing Bar (13)	266.8 Sq. Ft.
New Stage (15 & 12)	232.9 Sq. Ft.
New Window Display / New Storage (18 & 17)	170.625 Sq. Ft.
Interior Total (excludes restrooms)	3,233.265 Sq. Ft.

Men's Restroom (04)	94.5 Sq. Ft.
Women's Restroom (03)	120.3 Sq. Ft.
Interior Total (includes restrooms)	3448.065 Sq. Ft.

Existing Outdoor Patio (11)	695.5 Sq. Ft.
Int. & Ext. Total (excludes restrooms)	3,828.765 Sq. Ft.

Int. & Ext. Total (includes restrooms) 4,143.565 Sq. Ft.



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